



King County Board of Ethics
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KING COUNTY BOARD OF ETHICS MEETING NOTICE

When: Monday, October 16, 2000, at 4:30 p.m.

Where: Bank of California Building
900 Fourth Avenue, 4th Avenue and Marion Street, Seattle
5th floor conference room (southwest corner of the building)

AGENDA

1. **Approval of Agenda**
2. **Approval of Meeting Minutes of August 21, 2000.**
3. **Post Employment Provision.** Review and discussion.
4. **Appeal Hearings.** Review comments and approve proposed rules for withdrawal and dismissal.
5. **Filing of Orders and Decisions Under the Code of Ethics.** Review draft changes to requirements.
6. **Consultant Disclosure Program.** Staff report on outreach and education.
7. **Acknowledgment Letter for Carl Johansen.** Chair Price Spratlen.

cc: Ron Sims, King County Executive
King County Councilmembers
Duncan Fowler, Director–Ombudsman, Office of Citizen Complaints
Sheryl V. Whitney, Director, DIAS
James J. Buck, Deputy Director, DIAS
Carl A. Johansen, Senior Deputy Prosecuting Attorney

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ALTERNATE FORMATS AVAILABLE

**Minutes of the October 16, 2000, Meeting
of the King County Board of Ethics**

The October 16, 2000, meeting of the King County Board of Ethics was called to order by Chair Price Spratlen at 4:40 p.m. Board members in attendance were:

Lois Price Spratlen, Ph.D., Chair
Margaret T. Gordon, Ph.D.
Lembhard G. Howell, Esq.
Rev. Paul F. Pruitt

Mr. Roland H. Carlson was excused

Others in attendance:

Mr. Carl A. Johansen, Senior Deputy Prosecuting Attorney
Mr. Duncan Fowler, Ombudsman
Mr. James J. Buck, Deputy Director, Department of Information and Administrative Services

Chair Price Spratlen informed the Board that Cathy Clemens, Ethics Administrator, was out of town because of the passing of her mother-in-law. She said she knew all members of the Board joined her in sending condolences to Cathy and her husband. She noted that the meeting was being held in the new conference room on the Fifth Floor of the Bank of California Building and said it was her understanding that the Board would meet in this same room from now on. She also noted that Mr. Johansen would fill in for Ms. Clemens at today's meeting.

Chair Price Spratlen then asked for introductions from those present. Mr. Buck arrived.

1. *Proposed Agenda.* Mr. Howell moved, and Rev. Pruitt seconded, that the Board approve the proposed agenda. The Board unanimously adopted the motion.

2. *Approval of Meeting Minutes of August 21, 2000.* Rev. Pruitt moved, and Mr. Howell seconded, that the Board approve the August 21, 2000, meeting minutes. The Board unanimously adopted the motion. Chair Price Spratlen noted one typo on page 2 and asked Mr. Johansen to correct it.

3. *Post Employment Provisions Under the Code.* Chair Price Spratlen asked Mr. Johansen to lead the Board in its discussion of the post employment provisions included in the agenda materials. Mr. Johansen reported that based on the discussion and direction of the Board at its August 21, 2000 meeting, he prepared materials related to post employment and those materials were included in the agenda packets for Board members. He then reviewed the comments in his memorandum of October 10, 2000 and the documents attached to the memorandum.

With respect to prohibiting attempting to influence the former department of a former employee (green page 2), Mr. Howell said he thought the provision was too broad in the sense that it perhaps allowed more than should be allowed. He said there was a problem with current employees being asked to review or approve applications, requests and so forth from their former colleagues. Mr. Fowler said that in some areas, such as issuing building permits in unincorporated areas, King County had a monopoly; that is, for some actions, former employees and all other county residents could only make requests or submit applications to King County.

Chair Price Spratlen said people should be allowed to do business with the county, and the ethics code can't cut that off. She said she is concerned about knowledge acquired by employees and then used after they leave county employment. She said if a county employee develops relationships with colleagues, then leaves county employment, and then submits requests or other actions to those former colleagues, there could be problems of fair and equitable treatment. Dr. Gordon added that former employees could be treated negatively, depending on the kind of relationships they had developed while employed by the county. Chair Price Spratlen indicated that if decision-making criteria were established and applied, there might be less concern about the influence a former employee might have.

After Board members discussed particular situations that could involve conflicts by former employees, Chair Price Spratlen suggested that there should be a positive way to explain what former employees should not do when they conduct business with the county. She suggested tabling this provision for further discussion at the next meeting.

Rev. Pruitt said former employees should not ask for special consideration from current employees. He said it is important to assume that both current and former employees will act ethically and the Code of Ethics should clearly identify what conduct would not be consistent with their ethical obligations. Dr. Gordon agreed and suggested that counsel draft a provision that was positive. She said a former employee should not use his or her prior position to influence county decisions, and the burden would be on the former employee to demonstrate they were not using their former positions to influence current employees. It was the consensus of the Board to continue discussions on this provision at the next meeting and have counsel prepare alternative provisions for consideration by the Board.

Regarding prohibiting former employees from accepting employment or compensation if the employment or compensation involved contracts in which former employees had participated (green page 3), Mr. Johansen said he took this provision almost verbatim from the State Ethics Code. In response to a question about why a one-year period was included, Mr. Johansen said he did not know and had not talked to state officials involved in developing the State Ethics Code. He said he and Ms. Clemens would seek additional background information for the Board to consider.

With respect to prohibiting former employees from having beneficial interests in certain contracts or grants (green page 4), Mr. Johansen said he took this provision almost verbatim from the State Ethics Code. He said he and Ms. Clemens would seek additional background information on the two-year period included in this provision. It was the consensus of the Board to continue discussions of the provisions on green pages 3 and 4 at the next meeting.

Regarding prohibiting former employees from accepting employment or compensation if given as a reward for performance or non-performance of duties while county employees, Mr. Howell said the provision was very subjective and would be difficult to apply and enforce. Mr. Buck questioned how former employees would know if an offer of employment was being made as a reward for decisions made while in county employment. Mr. Fowler asked if former employees could accept employment with another governmental agency if employment involved contracts on which the former employees participated as county employees. Rev. Pruitt asked if the prohibition was broad enough to include situations in which former employees had made recommendations about contracts -- did merely making recommendations disqualify them? Mr. Johansen said he and Ms. Clemens would seek additional background information on this provision. It was the consensus of the Board to continue discussions of the provision on green page 5 at the next meeting.

With respect to prohibiting former employees from providing assistance to others in county actions in which the former employees had participated (green page 6), Mr. Howell moved, and Rev. Pruitt seconded, that the Board accept this provision for purposes of seeking comments. The Board unanimously adopted the motion. Dr. Gordon asked about the term "employee organization business". Mr. Johansen responded that the term referred to business conducted by employee organizations such as labor unions.

Regarding prohibiting disclosure or use of privileged or proprietary information by former employees (green page 7), Mr. Johansen said this provision was the same prohibition that applies to current county employees. Rev. Pruitt moved, and Mr. Howell seconded, that the Board accept this provision for purposes of seeking comments. The Board unanimously adopted the motion.

With respect to requiring former employees to disclose their county employment for two years after leaving the county (green page 8), Mr. Johansen said the first part of this provision was already included in the Code of Ethics. He said he added the second part calling for disclosures to be made to the Board of Ethics in order to add certainty about to whom disclosures should be made. Chair Price Spratlen suggested that disclosures be made to the county agency that would consider the county action involving the former employee. Mr. Howell agreed and added that the Board should not advocate a change that would create more bureaucracy or work for the Board or its staff. In response to a question about how many such disclosures are made under the current requirement, Mr. Buck said he did not think the requirement was well known and probably not many disclosures were made by former employees. Dr. Gordon moved, and Mr. Howell seconded, that the provision be

rewritten to require disclosure to the county agency that would consider the county action involving the former employee, not the Board of Ethics. The Board unanimously adopted the motion.

Regarding prohibiting former employees from assisting others to do what the former employees can't do personally (green page 9), Mr. Howell moved, and Dr. Gordon seconded, that the Board accept this provision for purposes of seeking comments. The Board unanimously adopted the motion.

Regarding identifying situations in which former employees were not prohibited from assisting others (green page 10), Mr. Howell moved, and Dr. Gordon seconded, that the Board accept this provision for purposes of seeking comments. The Board unanimously adopted the motion.

Regarding stating that former employees were not prohibited from accepting future county employment (green page 11), Rev. Pruitt moved, and Mr. Howell seconded, that the Board accept this provision for purposes of seeking comments. The Board unanimously adopted the motion.

With respect to stating that former employees were not prohibited from contracting directly with the county, with the exception stated on green page 4 (green page 12), it was the consensus of the Board to delay consideration until it received additional information about the provision set forth on green page 4.

Regarding authorizing the Board of Ethics to suspend or modify the post employment provisions based on a showing of manifestly unreasonable hardship (green page 13), Mr. Howell expressed strong opposition. He said this provision would take the teeth out of the ethics code. He said that rules should be adopted and former employees should comply with them. Chair Price Spratlen said this provision could be omitted. Dr. Gordon said she agreed with Mr. Howell and she questioned whether such new provisions could apply to current employees. Mr. Howell said the Board had to assume changes in the Code of Ethics would apply to current employees. Mr. Howell moved, and Dr. Gordon seconded, that the Board delete this provision from further consideration. The Board unanimously adopted the motion.

With respect to defining "employer" (green page 14), Dr. Gordon asked why the definition did not include any mention of compensation. Mr. Johansen said he and Ms. Clemens would seek additional background information on this provision, which was taken from the State Ethics Code. It was the consensus of the Board to continue discussions of the provision on green page 14 at the next meeting.

Regarding requiring disclosure by all contractors of their employment of former county employees (green page 15), Mr. Johansen said that as part of their statement of financial and other interests, certain consultants entering into contracts with the county are currently required to make disclosures about employing former county employees. He said the same disclosure requirement has not been imposed on other parties contracting with the county.

Mr. Howell said he was concerned about creating unnecessary work for the Ethics Administrator and unnecessary paperwork for contractors. Mr. Buck said he would contact the county purchasing staff to determine how many disclosure forms would be submitted annually. It was the consensus of the Board to continue discussions of the provision on green page 15 at the next meeting.

Concerning the recommended review process, Chair Price Spratlen said she supported seeking comments from county employees and officials once the Board reached a consensus on the content of new and revised post employment provisions. She said the Board would consider a review process at its next meeting.

4. *Appeal Hearings.* Mr. Johansen said the Board previously approved proposed provisions for withdrawals of requests for appeal hearings. He said Ms. Clemens had given the notice of the proposed provisions as required by King County Code. He said no written comments had been received on the proposed provisions and if no one offered comments at today's meeting, the Board could confirm its approval of the proposed provisions. He said if the Board was satisfied with the proposed provisions, Ms. Clemens would prepare and file the final procedures with the clerk of the council. The procedures would be effective 30 days after filing. Mr. Howell moved, and Dr. Gordon seconded, that the Board confirm its approval of the proposed provisions. The Board unanimously adopted the motion.

5. *Filing of Orders and Decisions Under the Code of Ethics.* Chair Price Spratlen said there was not sufficient time remaining in the meeting to consider this item. Mr. Johansen confirmed this item could be delayed without causing any problems. Chair Price Spratlen determined that this item should be carried over to the next meeting.

Mr. Fowler left the meeting.

6. *Consultant Disclosure Program.* Mr. Johansen said Ms. Clemens wanted the Board to know about the efforts that had been made to inform county officials and employees of the requirements related to consultant disclosure. Following the passage in 2000 of an amendment to the Code of Ethics relating to consultant disclosure requirement, K.C.C. 3.04.120, Ms. Clemens convened a panel of county employees involved in the contract process, to review and streamline the disclosure process and to increase awareness of the requirement. The result was an outreach plan to educate and inform county elected officials and employees who manage contracts. Education and information strategies included a memo with form attachments from Board Chair Price Spratlen and DIAS Director Whitney to county leadership; an e-mail to county leadership with electronic copies of the memo and new forms; and a HUM broadcast message informing county employees of the requirement and availability of the new form. Board members expressed their appreciation for Ms. Clemens' efforts.

7. *Acknowledgment Letter for Carl Johansen.* Chair Price Spratlen informed the Board that the letter to Sally Tenney, Chief Civil Deputy, had been sent expressing the Board's appreciation for Mr. Johansen's work on behalf of the Board of Ethics. She said no further action was needed by the Board. Mr. Johansen said he appreciated the kind words from

the

Board and very much enjoyed working with the Board and Ms. Clemens. Chair Price Spratlen asked him to inform the Board about his plans for 2001.

Mr. Johansen said it was his current plan to retire at the end of June or July 2001, which is about a year earlier than he had previously planned. He said Ms. Tenney, the Chief Civil Deputy, is already thinking about other deputies to serve as counsel to the Board. He said he suggested that after the Board's retreat in January 2001, Chair Price Spratlen might meet with Ms. Tenney to discuss what the Board planned to accomplish in 2001 and the level of legal resources the Board would need to assist it. He said there are many fine lawyers in the Civil Division and any one of them would provide top notch legal assistance to the Board. He again stated how much he enjoyed working with the Board and would do all he could over the next eight months to assist the Board to accomplish its objectives.

Rev. Pruitt moved, and Dr. Gordon seconded, a motion to adjourn the meeting. The Board unanimously approved the motion and the meeting was adjourned at 6:23 p.m.

Approved this 18th day of December, 2000, by the King County Board of Ethics.

Signed for the Board: _____
Dr. Lois Price Spratlen, Chair